

Senate Bill No. 2029

Passed the Senate August 30, 2000

Secretary of the Senate

Passed the Assembly August 28, 2000

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2000, at _____ o'clock ____M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Sections 7001, 7002, 7003, 7007, 7011.7, 7065.05, and 7164 of, to amend and repeal Section 7000.5 of, to add Sections 7021 and 7159.3 to, and to add and repeal Section 7092 of, the Business and Professions Code, relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

SB 2029, Figueroa. Contractors' State License Board.

(1) The Contractors' State License Law provides for the creation of the Contractors' State License Board with 13 members. Under existing law, these and other related provisions will become inoperative on July 1, 2001, and will be repealed on January 1, 2002.

This bill would require the board to conduct various studies and reviews, and to report to the Department of Consumer Affairs and the Legislature by October 1, 2001. This bill would increase the membership on the Contractors' State License Board to 15, as specified, and would enact other related provisions. The provisions affecting the board's existence would become inoperative on July 1, 2003.

(2) Under existing law, the board, with the approval of the Director of Consumer Affairs, is required to appoint a registrar of contractors who, among other matters, is responsible for reviewing and investigating complaints regarding licensed contractors filed with the board.

This bill would require the board to establish as a goal, the improvement of its disciplinary system, as specified, and would require the director to appoint a Contractors' State License Board Enforcement Program Monitor no later than January 31, 2001, whose duties would include monitoring and evaluating the board's disciplinary system and reporting his or her findings, as specified, to the board, the Department of Consumer Affairs, and the Legislature. This bill would make the provisions that pertain to the enforcement program monitor inoperative on January 31, 2003.



(3) Existing law requires home construction contracts and home improvement contracts, as defined, to be in writing and to contain specified provisions.

This bill would additionally require those contracts as well as estimates for home improvement work to contain provisions pertaining to the general liability insurance coverage of the contractor party to those contracts.

The people of the State of California do enact as follows:

SECTION 1. Section 7000.5 of the Business and Professions Code is amended to read:

7000.5. (a) There is in the Department of Consumer Affairs a Contractors' State License Board, which consists of 15 members.

(b) The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473). However, the review of this board by the department shall be limited to only those unresolved issues identified by the Joint Legislative Sunset Review Committee.

(c) This section shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 7001 of the Business and Professions Code is amended to read:

7001. All members of the board, except the public members, shall be contractors actively engaged in the contracting business, have been so engaged for a period of not less than five years preceding the date of their appointment and shall so continue in the contracting business during the term of their office. No one, except a public member, shall be eligible for appointment who does not at the time hold an unexpired license to operate as a contractor.

The public members shall not be licentiates of the board.



SEC. 3. Section 7002 of the Business and Professions Code is amended to read:

7002. (a) One member of the board shall be a general engineering contractor, two members shall be general building contractors, two members shall be specialty contractors, one member shall be a member of a labor organization representing the building trades, one member shall be an active local building official, and eight members shall be public members, one of whom shall be from a statewide senior citizen organization.

(b) No public member shall be a current or former licensee of the board or a close family member of a licensee or be currently or formerly connected with the construction industry or have any financial interest in the business of a licensee of the board. Each public member shall meet all of the requirements for public membership on a board as set forth in Chapter 6 (commencing with Section 450) of Division 1. Notwithstanding the provisions of this subdivision and those of Section 450, a representative of a labor organization shall be eligible for appointment to serve as a public member of the board.

(c) Each contractor member of the board shall be of recognized standing in his or her branch of the contracting business and hold an unexpired license to operate as a contractor. In addition, each contractor member shall, as of the date of his or her appointment, be actively engaged in the contracting business and have been so engaged for a period of not less than five years. Each contractor member shall remain actively engaged in the contracting business during the entire term of his or her membership on the board.

(d) Each member of the board shall be at least 30 years of age and of good character. In addition, each member shall have been a citizen and resident of the State of California for at least five years next preceding his or her appointment.

(e) For the purposes of construing this article, the terms “general engineering contractor,” “general building contractor,” and “specialty contractor” shall



have the meanings given in Article 4 (commencing with Section 7055) of this chapter.

SEC. 4. Section 7003 of the Business and Professions Code is amended to read:

7003. Except as otherwise provided, an appointment to fill a vacancy caused by the expiration of the term of office shall be for a term of four years and shall be filled, except for a vacancy in the term of a public member, by a member from the same branch of the contracting business as was the branch of the member whose term has expired. A vacancy in the term of a public member shall be filled by another public member. Each member shall hold office until the appointment and qualification of his or her successor or until the office is deemed to be vacant pursuant to Section 1774 of the Government Code, whichever first occurs.

Vacancies occurring in the membership of the board for any cause shall be filled by appointment for the balance of the unexpired term.

No person shall serve as a member of the board for more than two consecutive terms.

The Governor shall appoint four of the public members, including the public member who is from a statewide senior citizen organization, the local building official, the member of a labor organization representing the building trades, and the five contractor members qualified as provided in Section 7002. The Senate Rules Committee and the Speaker of the Assembly shall each appoint two public members.

SEC. 5. Section 7007 of the Business and Professions Code is amended to read:

7007. Eight members constitute a quorum at a board meeting.

Due notice of each meeting and the time and place thereof shall be given each member in the manner provided by the bylaws.

SEC. 6. Section 7011.7 of the Business and Professions Code is amended to read:

7011.7. (a) The registrar shall review and investigate complaints filed in a manner consistent with this chapter

and the Budget Act. It is the intent of the Legislature that complaints be reviewed and investigated as promptly as resources allow.

(b) The board shall set as a goal the improvement of its disciplinary system so that an average of no more than six months elapses from the receipt of a complaint to the completion of an investigation.

(c) Notwithstanding subdivision (a), the goal for completing the review and investigation of complaints that, in the opinion of the board, involve complex fraud issues or complex contractual arrangements, should be no more than one year.

SEC. 7. Section 7021 is added to the Business and Professions Code, to read:

7021. The board shall conduct the following studies and reviews, and shall report to the department and the Legislature no later than October 1, 2001.

(a) The board shall conduct a comprehensive study of the issues surrounding home improvement contracts that involve home equity lending fraud and scams, and provide recommendations to deal with this problem.

(b) The board shall conduct a comprehensive study of its reorganization (“reengineering”) plan to restructure intake, mediation, and investigation services, and evaluate the impact this effort has had on consumer and industry access to board staff, its ability to reduce timeframes for complaint processing and investigations, increasing mediations, investigations, and legal actions, productivity of staff, and overall costs to the board.

(c) The board shall conduct a comprehensive study and review of recovery fund programs in California and other states which provide compensation to consumers for financial injury caused by a licensed professional. It should evaluate the effectiveness of these programs and whether such a recovery fund could benefit consumers who are harmed as a result of contractor fraud, poor workmanship, malfeasance, abandonment, failure to perform, or other illegal acts.

(d) The board shall conduct a comprehensive study in consultation with the Department of Insurance, on the



use of surety bonds to compensate homeowners for financial injury sustained as a result of a contractor's fraud, poor workmanship, malfeasance, abandonment, failure to perform, or other illegal acts. This study shall include consideration of the payout criteria of bonds, increasing the bond amount, a "step-bonding" approach based on the amount of the prime contract, and the requirement of performance or payment bonds. This study shall additionally consider whether to require contractors to carry general liability insurance and whether to establish a guarantee program in order to provide the appropriate insurance and bond coverage in connection with a homeowner's employment of a contractor.

(e) The board shall review its current disclosure policy and provide recommended changes.

SEC. 8. Section 7065.05 of the Business and Professions Code is amended to read:

7065.05. (a) The board shall periodically review and, if needed, revise the contents of qualifying examinations to insure that the examination questions are timely and relevant to the business of contracting. The board shall, in addition, construct and conduct examinations in such a manner as to preclude the possibility of any applicant having prior knowledge of any specific examination question.

(b) The board shall establish a priority list and schedule for the completion of an occupational analysis of its current examinations. The board shall complete this analysis with respect to those examinations having the highest and moderately high need for revision by July 1, 2001, and complete this analysis with respect to all remaining examinations for revision by July 1, 2002.

SEC. 9. Section 7092 is added to the Business and Professions Code, to read:

7092. (a) (1) The director shall appoint a Contractors' State License Board Enforcement Program Monitor no later than January 31, 2001. The director may retain a person for this position by a personal services contract, the Legislature finding, pursuant to Section



19130 of the Government Code, that this is a new state function.

(2) The director shall supervise the enforcement program monitor and may terminate or dismiss him or her from this position.

(b) The director shall advertise the availability of this position. The requirements for this position include experience in conducting investigations and familiarity with state laws, rules, and procedures pertaining to the board and familiarity with relevant administrative procedures.

(c) (1) The enforcement program monitor shall monitor and evaluate the Contractors' State License Board discipline system and procedures, making as his or her highest priority the reform and reengineering of the board's enforcement program and operations, and the improvement of the overall efficiency of the board's disciplinary system.

(2) This monitoring duty shall be on a continuing basis for a period of no more than two years from the date of the enforcement program monitor's appointment and shall include, but not be limited to, improving the quality and consistency of complaint processing and investigation and reducing the timeframes for each, reducing any complaint backlog, assuring consistency in the application of sanctions or discipline imposed on licensees, and shall include the following areas: the accurate and consistent implementation of the laws and rules affecting discipline, staff concerns regarding disciplinary matters or procedures, appropriate utilization of licensed professionals to investigate complaints, the board's cooperation with other governmental entities charged with enforcing related laws and regulations regarding contractors.

(3) The enforcement program monitor shall exercise no authority over the board's discipline operations or staff; however, the board and its staff shall cooperate with him or her, and the board shall provide data, information, and case files as requested by the enforcement program monitor to perform all of his or her duties.



(4) The director shall assist the enforcement program monitor in the performance of his or her duties, and the enforcement program monitor shall have the same investigative authority as the director.

(d) The enforcement program monitor shall submit an initial written report of his or her findings and conclusions to the board, the department, and the Legislature no later than August 1, 2001, and every six months thereafter, and be available to make oral reports to each, if requested to do so. The enforcement program monitor may also provide additional information to either the department or the Legislature at his or her discretion or at the request of either the department or the Legislature. The enforcement monitor shall make his or her reports available to the public or the media. The enforcement program monitor shall make every effort to provide the board with an opportunity to reply to any facts, findings, issues, or conclusions in his or her reports with which the board may disagree.

(e) The board shall reimburse the department for all of the costs associated with the employment of an enforcement program monitor.

(f) This section shall remain in effect only until January 31, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 31, 2003, deletes or extends that date.

SEC. 10. Section 7159.3 is added to the Business and Professions Code, to read:

7159.3. (a) A home improvement contract and an estimate for home improvement work shall be accompanied by and include all of the following:

(1) A statement prepared by the board through regulation that emphasizes the value of commercial general liability insurance and encourages the owner or tenant to verify the contractor's insurance coverage and status.

(2) A check box indicating whether or not the contractor carries commercial general liability insurance, and if that is the case, the name and the telephone number of the insurer.

(3) A checklist prepared by the board through regulation setting forth the items that an owner contracting for home improvement should consider when reviewing a proposed home improvement contract.

(b) This section shall become operative three months after the board adopts the regulations referenced in paragraph (1) of subdivision (a).

SEC. 11. Section 7164 of the Business and Professions Code is amended to read:

7164. (a) Notwithstanding Section 7044, every contract and any changes in a contract, between an owner and a contractor, for the construction of a single-family dwelling to be retained by the owner for at least one year shall be evidenced in writing signed by both parties.

(b) The writing shall contain the following:

(1) The name, address, and license number of the contractor.

(2) The approximate dates when the work will begin and be substantially completed.

(3) A legal description of the location where the work will be done.

(4) The language of the notice required pursuant to Section 7018.5.

(5) (A) A statement prepared by the board through regulation that emphasizes the value of commercial general liability insurance and encourages the owner to verify the contractor's insurance coverage and status.

(B) A check box indicating whether or not the contractor carries commercial general liability insurance, and if that is the case, the name and the telephone number of the insurer.

(c) The writing may also contain other matters agreed to by the parties to the contract. The writing shall be legible and shall clearly describe any other document which is to be incorporated into the contract. Prior to commencement of any work, the owner shall be furnished a copy of the written agreement, signed by the contractor. The provisions of this section are not exclusive



and do not relieve the contractor from compliance with all other applicable provisions of law.

(d) Every contract subject to the provisions of this section shall contain, in close proximity to the signatures of the owner and contractor, a notice in at least 10-point bold type or in all capital letters, stating that the owner has the right to require the contractor to have a performance and payment bond and that the expense of the bond may be borne by the owner.

(e) The requirements in paragraphs (5) of subdivision (b) shall become operative three months after the board adopts the regulations referenced in subparagraph (A) of paragraph (5) of subdivision (b).



Approved _____, 2000

Governor

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